

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate the
Implementation Of Feed-in Tariffs.

DOCKET NO. 2008-0273

PUBLIC UTILITIES
COMMISSION

2009 DEC 14 P 1:55

FILED

**BLUE PLANET FOUNDATION'S COMMENTS ON THE
INDEPENDENT OBSERVER CONTRACT**

AND

CERTIFICATE OF SERVICE

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Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, and pursuant to the Commission's October 29, 2009 Order Setting Schedule in the above-captioned matter, hereby submits its Comments on the Independent Observer Contract ("Comments") as follows.¹

I. DISCUSSION

A. Procedural Background.

The Commission's September 25, 2009 Decision and Order ("Decision and Order") requires an "independent third party," modeled on the Independent Observer in the Commission's Competitive Bidding Framework,² to oversee the queuing process for feed-in tariff ("FIT") projects, assist in developing the queuing process, inform parties of the queue length and their status in it, and monitor how the utility administers the queue. *See* Decision and Order at 93.

¹ Blue Planet's Comments are timely filed. The October 29, 2009 Order Setting Schedule requires the Comments to be filed one week after filing of the Independent Observer List, which was filed December 7, 2009. *See* H.A.R. § 6-61-22 (Saturdays, Sundays and holidays excluded from the calculation of a time period less than seven days).

² *See* Docket No. 03-0372, Decision and Order No. 23121 (Dec. 11, 2006).

The Commission's October 29, 2009 Order Setting Schedule accordingly directs the filing of an Independent Observer qualified candidate list. On November 13, 2009, the Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited (collectively, "HECO Companies") filed their list of candidates for Independent Observer, and on December 7, 2009, the HECO Companies filed their proposed Independent Observer contract ("IO Contract").

B. Comments on Independent Observer's Scope of Work.

1. Basis for comments.

Blue Planet's comments focus solely upon the IO Contract's scope of work as set forth in section I and Exhibit A of the contract. Specifically, Blue Planet proposes revisions to the scope of work set forth in Exhibit A ("Scope of Work") for the following reasons.

a. Primary function is to oversee queuing.

The September 25, 2009 Decision and Order states that the Independent Observer "should oversee the queuing process for FIT projects." *Id.* at 93 (emphasis added). The proposed Scope of Work does not directly state that the Independent Observer should "oversee" the process.

b. Procedures to be developed by Company and all parties.

The proposed Scope of Work indicates the Independent Observer will provide assistance to "the Company" in developing the queuing process. The Commission's Order Setting Schedule contemplates that the queuing process shall be jointly developed by all parties to this proceeding.

c. FIT and non-FIT procedures must be essentially unified.

The discussion of queuing and interconnection in section II.E of the Decision and Order does not appear to refer to non-FIT contracting mechanisms, such as competitive bidding, power purchase agreements, net energy metering, etc. The HECO Companies' proposed Scope of Work, however, states that the Independent Observer shall "help manage these various contracting mechanisms[.]" *Id.* Thus, the HECO Companies' proposed Scope of Work appears to at least somewhat expand the scope of the Independent Observer's duties beyond that contemplated by the Decision and Order.

As explained in its Comments on the Independent Observer List, Blue Planet supports a scope of work for the Independent Observer that includes coordinating and integrating the queuing and interconnection procedures developed in this proceeding ("FIT Q&I procedures") with queuing and interconnection procedures employed in other renewable energy procurement mechanisms, including Net Energy Metering, competitive bidding, negotiated power purchase agreements, Schedule Q, and avoided cost offerings (collectively, "non-FIT Q&I procedures"). *See* Blue Planet Comments on Independent Observer List filed Nov. 18, 2009 at 2-3; Decision and Order at 17-29. The FIT Q&I procedures must be coordinated and integrated to a high degree with any and all non-FIT Q&I procedures. Essentially, unified Q&I procedures across all renewable energy procurement mechanisms are necessary and appropriate as a practical matter and as matter of fairness.

As a practical matter, assuming safety and reliability considerations limit the amount of intermittent energy the HECO Companies' grids are capable of utilizing, the FIT Q&I procedures must be coordinated and integrated with the non-FIT Q&I procedures to ensure grid safety and reliability considerations are addressed. As a matter of fairness, all Q&I procedures

must be coordinated and integrated to ensure the individual and collective success of the various procurement mechanisms. Transparency is critical to the success of these mechanisms.

Developers must have access to detailed, timely and accurate information about Q&I procedures across the various procurement mechanisms. The absence of such information may lead to “gaming” in the implementation of the Q&I procedures, increased development costs due to uncertainty, and the procurement of less renewable energy through both FIT and non-FIT mechanisms. *See Blue Planet Comments on Independent Observer List at 3.*

2. Proposed substitute Scope of Work.

Based on the foregoing, Blue Planet proposes to substitute the following for the HECO Companies’ proposed Scope of Work.

Scope of Work

The independent observer will oversee the Feed-in Tariff queuing process and otherwise provide independent observer services consistent with Decision & Order dated September 25, 2009 in Docket No. 2008-0273. These services will include, but not be limited to, providing assistance to the Company and all parties in Docket No. 2008-0273 in the development of the queuing procedures for the Company's FIT programs for HECO, MECO, and HELCO. The independent observer will also monitor the Company's administration of the queue and inform parties of the queue length and their status in it. The independent observer will report to the Commission and carry out such tasks as directed by the Commission.

In addition, the Company recognizes that parties seeking as-available renewable energy contracts may seek contracts through the FIT program or through non-FIT programs such as competitive bidding, bilateral power purchase agreements, net energy metering, Schedule Q, standard interconnection agreements, and possibly the PV Host Program. Queuing and interconnection procedures for all FIT and non-FIT programs must be transparent and highly coordinated and integrated and the independent observer will assist the Company and the parties to in Docket No. 2008-0273 in developing and implementing transparent and highly coordinated

and integrated queuing and interconnection procedures for all FIT and non-FIT programs.

DATED: Honolulu, Hawaii, December 14, 2009.

A handwritten signature in black ink, appearing to read "Doug A. Codiga", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a copy of the foregoing document was
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